

## **REMARKS**

### **I. Status of Claims**

Claims 4-8 are pending in the current application. Claim 4 is independent. Claims 4-7 are currently amended, and claim 8 is newly added. Support for the additional claim language can at least be found in paragraph [0026] of the present application. Claims 1-3 were previously canceled.

Claim 4 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over McConnell, Sr ("McConnell").

Claim 5 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over McConnell, Sr. in view of Tomlinson.

Claim 6 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over McConnell, Sr. in view of Teichelman.

Claim 7 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over McConnell, Sr. in view of Tomlinson and in further view of Teichelman.

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Pending Claims**

Independent claim 4, the only independent claim, is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over McConnell.

The Applicant respectfully submits that claim 4, the only independent claim, is patentable over the cited references at least because it recites, "a restriction plate creating a leak-tight seal and vertically mobile between stable guides within the reservoir such that the restriction plate decreases or increases the total volume available to be occupied by the fire fighting liquid in the

reservoir...” and “...an electric motor attached to the restriction plate, wherein the motor controls the rise and fall of the restriction plate.”

The Applicant respectfully submits that McConnell does not contain each and every limitation of the invention of Applicant’s claim 4. While McConnell discloses a reservoir, launcher, and weighted plate, there are numerous structural differences between these elements and the invention of claim 4.

In the invention of claim 4, the restriction plate is raised and/or lowered using an electric motor, while the weighted plate in McConnell simply rests on top of the liquid contained in the reservoir and falls based on gravitational forces. Furthermore, the invention of claim 4 contains the additional limitation that the restriction plate create a leak-tight seal in the reservoir, such that the liquid below the restriction plate does not enter the area of the reservoir above the restriction plate. McConnell makes no mention of such a seal. In fact, it would be impractical to do so based on the requirement that gravity pull the plate down rather than a stronger, motorized force.

Additionally, the Office Action indicates that the use of an electric motor to raise and/or lower the restriction plate is allegedly taught by Teichelman. However, the Applicant respectfully submits that Teichelman is not analogous art. In order for a reference to be the basis for an obviousness rejection, it must be analogous art. In other words, the reference must be reasonably pertinent or within the inventor’s field of endeavor in order to be used in an obviousness rejection. MPEP § 2141.01(a).

Teichelman is directed to a coin-operated vending machine, a field that is totally unrelated to the field of devices for fighting fires in remote areas. Simply teaching the use of a motorized plate in a totally different field would not lead a person of ordinary skill in the art to

devise the restriction plate as claimed. Furthermore, a person of ordinary skill in designing devices for fighting fires would not logically look to the field of vending machines for a solution to the problem of maintaining a static center of gravity in a liquid-filled reservoir. Accordingly, the Applicant respectfully submits that the Teichelman reference is non-analogous art and may not be used in the obviousness rejection as alleged. Because Teichelman relates to different technical arts and their objects are different, the Applicant respectfully submits that they should not be used to modify the base references as alleged in the obviousness rejection.

Further, the Applicant respectfully submits that none of the other references address the deficiencies of McConnell. As discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), the Applicant respectfully submits that it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant and it is respectfully submitted that obviousness cannot be sustained on mere conclusory statements.

Therefore, for at least these reasons, the Applicant respectfully submits that claim 4 and its dependent claims are patentable over McConnell.

**III. Conclusion**

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. **The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.**

Respectfully submitted,

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